



Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

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**Proposed Habitat Conservation Plan/Natural Community Conservation Plan for
Western Butte County, CA: Environmental Impact Statement**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; notice of public scoping meeting; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a draft environmental impact statement (EIS) under the National Environmental Policy Act for the proposed Habitat Conservation Plan/Natural Community Conservation Plan for Western Butte County, hereafter referred to as the Butte Regional Conservation Plan (BRCP). This document is being prepared under the Endangered Species Act of 1973, as amended, and the California Natural Community Conservation Planning Act. The BRCP addresses State and Federal endangered species compliance requirements for the county

of Butte and the cities of Oroville, Chico, Biggs, and Gridley (local agencies); the Butte County Association of Governments (BCAG); the California Department of Transportation (Caltrans); the Western Canal Water District; the Biggs West Gridley Water District, Butte Water District; and Richvale Irrigation District; and the BRCP implementing entity that will be established to implement the BRCP (permit applicants) for activities and projects in the BRCP plan area that they conduct or approve. The permit applicants intend to apply for a 50-year incidental take permit from the Service. This permit is needed to authorize the incidental take of threatened and endangered species that could result from activities covered under the BCRP. We announce meetings and invite comments.

DATES: To ensure consideration, please send your written comments by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Two public scoping meetings will be held on January 9th, 2013, the first from 2 to 4 p.m. at the Oroville City Council Chambers, located at 1735 Montgomery Street Oroville, CA 95965; and the second from 6:00 to 8:00 p.m. at the Butte County Association of Governments, at 2580 Sierra Sunrise Terrace Suite 100, Chico, CA 95928.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comment is in reference to the Butte Regional Conservation Plan (BRCP):

- *U.S. Mail:* U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825.

- *In-Person Drop-off, Viewing, or Pickup:* Call 916-414-6600 to make an appointment during regular business hours to drop off comments or view received comments at the above U.S. mail address.
- *Fax:* U.S. Fish and Wildlife Service, 916-414-6713, Attn.: Mike Thomas.

FOR FURTHER INFORMATION CONTACT: Mike Thomas, Chief, Conservation Planning Division, Sacramento Fish and Wildlife Office, or Eric Tattersall, Deputy Assistant Field Supervisor, by phone at 916-414-6600 or by U.S. mail at the above address. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.; NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531 et seq.; Act). We intend to prepare a draft EIS to evaluate the impacts of several alternatives related to the potential issuance of an Incidental Take Permit to the applicants, as well as impacts of the implementation of the supporting proposed Butte Regional Conservation Plan. The EIS will be a joint EIS/Environmental Impact Report (EIR), for which the Service, BCAG, the National Marine Fisheries Service (NMFS), and the California Department of Fish and Game (CDFG), intend to gather information necessary for preparation.

The BRCP is a comprehensive, regional plan designed to provide long-term conservation and management of natural communities, sensitive species, and the habitats upon which those species depend, while accommodating other important uses of the land. It will serve as a habitat conservation plan pursuant to the federal Endangered Species Act (Act), and a natural community conservation plan (NCCP) under the California Natural Community Conservation Planning Act (NCCPA).

The Service will serve as the administrative lead for all actions related to this Federal Register notice for the EIS component of the EIS/EIR. The BCAG will serve as the State lead agency under the California Environmental Quality Act for the EIR component. BCAG, in accordance with the California Environmental Quality Act, is publishing a similar notice.

Project Summary

In 2007, the BRCP planning agreement was entered into and by and among the local agencies, BCAG, CDFG, the Service, and NMFS. In 2010, Western Canal Water District, Biggs West Gridley Water District, Butte Water District, Richvale Irrigation District and Caltrans became additional signatories to the planning agreement. The planning agreement set out the initial scope of the program and defined the roles and responsibilities of the parties in the development of the BRCP. The planning agreement has helped guide the BRCP planning process and to define the initial scope of the effort. BCAG served as the lead in coordination of the process and preparation of the BRCP.

The BRCP's conservation strategy proposes to provide a regional approach for the long-term conservation of covered species (see **Covered Species**, below) and natural communities within the BRCP plan area while allowing for compatible future land use and development under county and city general plan updates and the regional transportation plans. The BRCP identifies and addresses the covered activities carried out by the permittees that may result in take of covered species within the BRCP plan area.

The proposed BRCP is intended to be consistent with and support compliance with other Federal and State wildlife and related laws and regulations, other local conservation planning efforts, and the city and county general plans. The BRCP was developed in coordination with the development of city and county general plans in the BRCP plan area, with feedback loops between the BRCP and general plan processes. These feedback loops identified opportunities and constraints and allowed for improvements in the general plans regarding the avoidance and minimization of impacts on biological resources and the development of open space and conservation elements that dovetail with the BRCP.

The proposed BRCP is designed to streamline and coordinate existing processes for review and permitting of public and private activities that potentially affect protected species. To meet this goal, the BRCP will propose a conservation strategy that includes measures to ensure that impacts on covered species and habitats related to covered activities are avoided, minimized, or mitigated, as appropriate. Covered activities

encompass the range of existing and future activities that are associated with much of the regional economy (see **Covered Activities**, below).

Background

Section 9 of the Act (16 U.S.C. 1531 et seq.) and Federal regulations prohibit the “take” of wildlife species listed as endangered or threatened. The Act defines the term “take” as: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Pursuant to section 10(a)(1)(B) of the Act, we may issue permits to authorize “incidental take” of listed species. “Incidental take” is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Service regulations governing permits for threatened species and endangered species, respectively, are promulgated in 50 CFR sections 17.22 and 17.32.

Section 10(a)(1)(B) of the Act contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

- The taking will be incidental;
- The applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking;

- The applicants will develop a proposed HCP and ensure that adequate funding for the plan will be provided;
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- The applicants will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

Thus, the purpose of issuing an ITP is to allow the applicants, under their respective regional authority, to authorize development while conserving the covered species and their habitats. Implementation of a multispecies HCP, rather than a species-by-species or project-by-project approach, can maximize the benefits of conservation measures for covered species and eliminate expensive and time-consuming efforts associated with processing individual ITPs for each project within the applicants' proposed Plan Area. The Service expects that the applicants will request ITP coverage for a period of 50 years.

Plan Area

The boundary of the BRCP plan area (or permit area) is based on political, ecological, and hydrologic factors. The BRCP plan area includes approximately 564,270 acres, including the western lowlands and foothills of Butte County. The BRCP plan area is bounded on the west by county boundaries with Tehama, Glenn, and Colusa Counties; bounded on the south by boundaries with Sutter and Yuba Counties; bounded on the

north by the boundary with Tehama County; and bounded on the east by the upper extent of landscape dominated by oak woodland natural communities. Specifically, the eastern oak woodland boundary is defined by a line below which land-cover types dominated by oak trees comprise more than one half of the land cover present, plus a small portion of the City of Chico that extends above the oak zone.

Covered Activities

The proposed section 10 incidental take permit may allow take of covered wildlife species resulting from covered activities on non-Federal land in the proposed BRCP plan area. BCAG and local partners intend to request incidental take authorization for covered species that could be affected by activities identified in the BRCP. The activities within the BRCP plan area for which incidental take permit coverage is requested include construction and maintenance of facilities and infrastructure, both public and private, that are consistent with local general plans and local, State and Federal laws. The following is a summary of covered activities as proposed in the BRCP. Activities are grouped geographically (within Urban Permit Areas, outside urban permit areas, and within the system of conservation lands established in the BRCP), and are further grouped into activities that result in permanent development, and activities involving maintenance of existing or new facilities that are expected to occur over time during the permit duration. This following list is not intended to be exhaustive; rather, it provides an overview of the types of activities that would be expected to occur.

1. Activities within Urban Permit Areas (UPAs) are areas within the BRCP plan area for which the cities and County anticipate urban development under their respective general plan updates.
 - a. Permanent Development: Covered activities within UPAs as a result of new construction and improvements to existing facilities are covered, including the following types of activities: residential, commercial, public facilities, and industrial construction; recreational activity–related construction; transportation facilities construction; pipeline installation; utility services (above and below ground); waste and wastewater management activities; flood control and stormwater management activities; and in-water permanent development projects.
 - b. Recurring Maintenance: Covered activities within UPAs include maintenance of existing and new facilities that results in temporary impacts, including the following types of activities: recreational activities; transportation facilities maintenance; pipeline maintenance; utility services; waste and wastewater facilities management activities; flood control and stormwater management activities; vegetation management; bridge and drainage structure maintenance; in-water recurring maintenance activities; and irrigation and drainage canal activities (Western Canal Water District, Biggs West Gridley Water District, Butte Water District, and Richvale Irrigation District).
2. Activities outside UPAs are areas of the county within the BRCP plan area and located outside of the UPAs. Covered activities include linear utilities,

transportation construction and maintenance projects, and agricultural support services projects. Outside UPAs do not include areas that become part of BRCP conservation lands.

a. Permanent Development: Covered activities of outside UPAs include new construction and improvements to existing facilities, including the following types of activities: waste management and wastewater facilities; rerouting of canals (Western Canal Water District, Biggs West Gridley Water District, Butte Water District, and Richvale Irrigation District); transportation facilities construction; BCAG Regional Transportation Plan and Caltrans projects; county rural bridge replacement projects; Butte County rural intersection improvement projects; Butte County rural roadway improvement projects; in-water permanent development projects; and agricultural services.

b. Recurring Maintenance: Covered activities of outside UPAs include maintenance of existing and new facilities, including the following types of activities: waste and wastewater management activities; irrigation and drainage canal activities (Western Canal Water District, Biggs West Gridley Water District, Butte Water District, and Richvale Irrigation District); transportation facilities maintenance; flood control and stormwater management activities; vegetation management; in-water maintenance activities; and bridge and drainage structure maintenance.

3. Conservation Lands include the system of conservation lands established under the BRCP. Conservation actions will be implemented by the BRCP on

conservation lands, including the following types of activities: habitat management; habitat restoration and enhancement; habitat and species monitoring; directed studies; general maintenance of conservation lands and facilities; avoidance and minimization measures; and species population enhancement measures.

Covered Species

Covered Species are those species addressed in the proposed BRCP for which conservation actions will be implemented and for which the permit applicants will seek incidental take authorizations for a period of up to 50 years. Proposed covered species are expected to include threatened and endangered species listed under the Act, species listed under the California Endangered Species Act, and currently unlisted species. Species proposed for coverage in the BRCP are species that are currently listed as federally threatened or endangered or have the potential to become listed during the life of this BRCP and have some likelihood to occur within the BRCP plan area. The BRCP is currently expected to address 41 listed and non-listed wildlife and plant species. The list of proposed covered species may change as the planning process progresses; species may be added or removed as more is learned about the nature of covered activities and their impact within the BRCP plan area.

The following federally listed threatened and endangered wildlife species are proposed to be covered by the BRCP: The threatened Central Valley steelhead

(*Oncorhynchus mykiss*), endangered Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened green sturgeon (*Acipenser medirostris*), threatened Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), endangered vernal pool tadpole shrimp (*Lepidurus packardii*), endangered conservancy fairy shrimp (*Branchinecta conservatio*), threatened vernal pool fairy shrimp (*Branchinecta lynchi*), and threatened giant garter snake (*Thamnophis gigas*).

The following unlisted wildlife species are proposed to be covered by the BRCP: tricolored blackbird (*Agelaius tricolor*), yellow-breasted chat (*Icteria virens*), bank swallow (*Riparia riparia*), Western burrowing owl (*Athene cunicularia hypugea*), western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), greater sandhill crane (*Grus canadensis tabida*), California black rail (*Laterallus jamaicensis coturniculus*), American peregrine falcon (*Falco peregrinus anatum*), Swainson's hawk (*Buteo swainsoni*), white-tailed kite (*Elanus leucurus*), bald eagle (*Haliaeetus leucocephalus*), Blainville's horned lizard (*Phrynosoma blainvillii*), Western pond turtle (*Actinemys marmorata*), foothill yellow-legged frog (*Rana boylei*), Western spadefoot toad (*Spea hammondi*), Central Valley fall/late fall-run Chinook salmon (*Oncorhynchus tshawytscha*), Sacramento splittail (*Pogonichthys macrolepidotus*), and river lamprey (*Lampetra ayresii*).

Take of listed plant species is not prohibited on non-Federal land under the Act, and cannot be authorized under a section 10 permit. However, the permit applicants

propose to include plant species on the permit in recognition of the conservation benefits provided for them under an HCP. For the purposes of the plan, certain plant species are further included to meet regulatory obligations under section 7 of the Act and the California Endangered Species Act. The Applicant would receive assurances under the Service's "No Surprises" regulations found in 50 CFR 17.22(b)(5) and 17.32(b)(5) for all species on the incidental take permit. The following federally listed plant species are proposed to be included in the BRCP in recognition of the conservation benefits provided for them under the BRCP and the assurances permit holders would receive if they are included on a permit: the threatened Hoover's spurge (*Chamaesyce hooveri*), endangered Butte County meadowfoam (*Limnanthes floccosa* ssp. *californica*), endangered hairy Orcutt grass (*Orcuttia pilosa*), threatened slender Orcutt grass (*Orcuttia tenuis*), and endangered Greene's tuctoria (*Tuctoria greenei*). The following unlisted plant species are also proposed to be included in the BRCP: Ferris' milkvetch (*Astragalus tener* var. *ferrisiae*), lesser saltscare (*Atriplex minuscula*), Ahart's dwarf rush (*Juncus leiospermus* var. *ahartii*), Red Bluff dwarf rush (*Juncus leiospermus* var. *leiospermus*), veiny monardella (*Monardella douglasii* ssp. *venosa*), Ahart's paronychia (*Paronychia ahartii*), California beaked-rush (*Rhynchospora californica*) Butte County checkerbloom (*Sidalcea robusta*), and Butte County golden clover (*Trifolium jokerstii*).

Environmental Impact Statement

Before deciding whether to issue the requested Federal incidental take permit, the Service will prepare a draft EIS, in order to analyze the environmental impacts associated

with issuance of the incidental take permit. In the EIS, the Service will consider the following alternatives: (1) The proposed action, which includes the issuance of take authorizations consistent with the proposed BRCP under section 10(a)(1)(B) of the Act; (2) no action (no permit issuance); and (3) a reasonable range of additional alternatives. The EIS/EIR will include a detailed analysis of the impacts of the proposed action and alternatives. The range of alternatives could include variations in impacts, conservation, permit duration, covered species, covered activities, permit area, or a combination of these elements.

The EIS/EIR will identify and analyze potentially significant direct, indirect, and cumulative impacts of our authorization of incidental take (permit issuance) and the implementation of the proposed BRCP on biological resources, land uses, utilities, air quality, water resources, cultural resources, socioeconomics and environmental justice, recreation, aesthetics, climate change and greenhouse gases, and other environmental issues that could occur with implementation of each alternative. The Service will use all practicable means, consistent with NEPA and other relevant considerations of national policy, to avoid or minimize significant effects of our actions on the quality of the human environment.

Following completion of the environmental review, the Service will publish a notice of availability and a request for comment on the draft EIS/EIR and the applicants' permit application, which will include the proposed HCP.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We will consider these comments in developing a draft EIS/EIR and in the development of an HCP and ITP. We particularly seek comments on the following:

1. Biological information concerning the species;
2. Relevant data concerning the species;
3. Additional information concerning the range, distribution, population size, and population trends of the species;
4. Current or planned activities in the subject area and their possible impacts on the species;
5. The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and
6. Identification of any other environmental issues that should be considered with regard to the proposed development and permit action.

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section.

Comments and materials we receive, as well as supporting documentation we use in preparing the EIS/EIR document, will be available for public inspection by appointment, during normal business hours (Monday through Friday, 8 a.m. to 4:30 p.m.) at the Service's Sacramento address (see **ADDRESSES**).

Scoping Meetings

See **DATES** for the dates and times of our public meetings. The purpose of scoping meetings is to provide the public with a general understanding of the background of the proposed HCP and activities it would cover, alternative proposals under consideration for the draft EIS, and the Service's role and steps to be taken to develop the draft EIS for the proposed HCP.

The primary purpose of these meetings and public comment period is to solicit suggestions and information on the scope of issues and alternatives for the Service to consider when drafting the EIS. Written comments will be accepted at the meetings. Comments can also be submitted by methods listed in the **ADDRESSES** section. Once the draft EIS and proposed HCP are complete and made available for review, there will be additional opportunity for public comment on the content of these documents through additional public comment periods.

Meeting Location Accommodations

Persons needing reasonable accommodations in order to attend and participate in the public meetings should contact Mike Thomas at 916-414-6600 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 et seq.) and per NEPA Regulations (40 CFR 1501.7, 40 CFR 1506.6, and 1508.22).

Dated: December 10, 2012

Alexandra Pitts

Deputy Regional Director,

Pacific Southwest Region,

Sacramento, California.

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